

(3) the model secondary school for individuals who are deaf.

**(b) National Technical Institute for the Deaf**

There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993 through 1997 to carry out the provisions of this chapter relating to the National Technical Institute for the Deaf.

(Pub. L. 99-371, title II, § 211, formerly title IV, § 411, Aug. 4, 1986, 100 Stat. 794; renumbered title II, § 211, and amended Pub. L. 102-421, title I, §§ 101(b)(5), (6), 140, 151(a)(4), Oct. 16, 1992, 106 Stat. 2151, 2163, 2164; Pub. L. 103-73, title II, § 204(l), Aug. 11, 1993, 107 Stat. 735.)

**CODIFICATION**

Section is also set out in D.C. Code, § 31-1842.11.

**AMENDMENTS**

1993—Subsec. (a). Pub. L. 103-73 redesignated subpars. (A) to (C) as pars. (1) to (3), respectively.

1992—Subsec. (a). Pub. L. 102-421, § 140(1)(A), substituted "fiscal years 1993 through 1997" for "fiscal years 1987, 1988, 1989, 1990, and 1991" in introductory provisions.

Subsec. (a)(B). Pub. L. 102-421, § 140(1)(B), struck out "part B of subchapter I of this chapter, relating to" before "Kendall".

Subsec. (a)(C). Pub. L. 102-421, § 151(a)(4), substituted "individuals who are deaf" for "the deaf".

Pub. L. 102-421, § 140(1)(C), struck out "part C of subchapter I of this chapter, relating to" before "the model".

Subsec. (b). Pub. L. 102-421, § 140(2), substituted "fiscal years 1993 through 1997 to carry out the provisions of this chapter relating to" for "fiscal years 1987, 1988, 1989, 1990, and 1991 to carry out the provisions of subchapter II of this chapter, relating to".

Subsec. (c). Pub. L. 102-421, § 140(3), struck out subsec. (c) which read as follows: "(c) COMMISSION ON EDUCATION FOR THE DEAF.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of subchapter III of this chapter, relating to the Commission on Education of the Deaf. Sums appropriated pursuant to this subsection shall remain available until expended or until the termination of the Commission, whichever first occurs."

**EFFECTIVE DATE OF 1992 AMENDMENT**

Amendment by Pub. L. 102-421 effective Oct. 1, 1992, see section 161 of Pub. L. 102-421, set out as a note under section 4301 of this title.

**§ 4363. Financial and program audit by Secretary**

Funds appropriated in this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts to the National Technical Institute for the Deaf, and Gallaudet University shall be subject to financial and program audit by the Secretary of Education and the Secretary may withhold all or any portion of these appropriations if he determines that an institution has not cooperated fully in the conduct of such audits.

(Pub. L. 102-394, title III, § 301, Oct. 6, 1992, 106 Stat. 1819.)

**CODIFICATION**

Section is from the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1993, and was not enacted as part of the Education of the Deaf Act of 1986

which comprises this chapter, and contained additional provisions relating to the American Printing House for the Blind and Howard University, which are set out as sections 106a and 130a of this title, respectively.

**CHAPTER 56—AMERICAN INDIAN, ALASKA NATIVE, AND NATIVE HAWAIIAN CULTURE AND ART DEVELOPMENT**

**SUBCHAPTER 1—AMERICAN INDIANS AND ALASKA NATIVES**

Sec

4426.

Provision of facilities.

(a) Plan.

(b) Deadline for transmittal.

**SUBCHAPTER I—AMERICAN INDIANS AND ALASKA NATIVES**

**§ 4412. Board of Trustees**

**(a) Composition**

(1) The Board of Trustees of the Institute shall be composed of 13 voting members and 6 nonvoting members as follows:

(A) Subject to the provisions of subsection (1) of this section, the voting members shall be appointed by the President of the United States by and with the advice and consent of the Senate, not later than 180 days after October 17, 1986, from among individuals from private life who are Indians, or other individuals, widely recognized in the field of Indian art and culture and who represent diverse political views, and diverse fields of expertise, including finance, law, fine arts, and higher education administration.

*[See main edition for text of (B), (2)]*

(3) The President shall carry out the activities described in subparagraphs (B) and (C) of paragraph (2) through the Board. The Board may make recommendations based upon the nominations received, may make recommendations of its own, and may review and make comments to the President or the President's appointed staff on individuals being considered by the President for whom no nominations have been received.

(4) Members of Congress appointed under this section, or their designees, shall be entitled to attend all meetings of the Board and to provide advice to the Board on any matter relating to the Institute.

*[See main edition for text of (b) to (h)]*

**(i) Appointment exception for continuity**

(1) In order to maintain the stability and continuity of the Board, the Board shall have the power to recommend the continuation of members on the Board pursuant to the provisions of this subsection. When the Board makes such a recommendation, the Chairman of the Board shall transmit the recommendation to the President no later than 75 days prior to the expiration of the term of the member.

(2) If the President has not transmitted to the Senate a nomination to fill the position of a member covered by such a recommendation within 60 days from the date that the member's term expires, the member shall be deemed to

have been reappointed for another full term to the Board, with all the appropriate rights and responsibilities.

(3) This subsection shall not be construed to permit less than 7 members of the Board to be Indians. If an extension of a term under paragraph (2) would result in less than 7 members being Indians, the term of the member covered by paragraph (2) shall be deemed to expire 60 days after the date upon which it would have been deemed to expire without the operation of this subsection, except that the provisions of subsection (b)(4) of this section, relating to continuation of service pending replacement, shall continue to apply.

(As amended Pub. L. 102-325, title XIII, § 1331(a), July 23, 1992, 106 Stat. 805.)

#### AMENDMENTS

1992—Subsec. (a)(1)(A). Pub. L. 102-325, § 1331(a)(1), substituted "Subject to the provisions of subsection (i) of this section, the voting" for "The voting" and inserted before period at end ", and diverse fields of expertise, including finance, law, fine arts, and higher education administration".

Subsec. (a)(3), (4). Pub. L. 102-325, § 1331(a)(2), (3), added par. (3) and redesignated former par. (3) as (4).

Subsec. (i). Pub. L. 102-325, § 1331(a)(4), added subsec. (i) and struck out former subsec. (i) which read as follows: "(i) REVIEW BY SECRETARY OF THE INTERIOR.—For so long as any employee of the Institute is covered under title 5, the Board (acting by majority vote) shall submit final decisions relating to personnel to the Secretary of the Interior. Each such decision shall become final 30 days after the date of its receipt by the Secretary unless the Secretary disapproves of such decision. The Secretary may only disapprove a decision of the Board for just cause."

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-325 effective Oct. 1, 1992, see section 2 of Pub. L. 102-325, set out as a note under section 1001 of this title.

#### DELEGATION OF AUTHORITY

Memorandum of President of the United States, Feb. 22, 1991, 56 F.R. 8099, provided:

Memorandum for the Chairman of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development

By the authority vested in me as President of the United States by section 301 of Title 3 of the United States Code, I hereby delegate to the Chairman of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development the responsibility under section 1505(a)(2)(B) of P.L. 99-498 (20 U.S.C. 4412(a)(2)(B)) to publish in the Federal Register an announcement of the expiration of the terms of the presidentially appointed members of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development no less than 4 months prior to their expiration. The authority delegated by this memorandum may be further redelegated within the Institute.

The delegation of authority to the Secretary of the Interior by memorandum of June 22, 1988, is hereby rescinded.

This memorandum shall be published in the Federal Register.

GEORGE BUSH.

#### § 4414. General powers of Board

##### (a) In general

In carrying out the provisions of this chapter, the Board shall have the power, consistent with the provisions of this chapter—

(1) to adopt, use, and alter a corporate seal;

(2) to make agreements and contracts with persons, Indian tribes, and private or governmental entities and to make payments or advance payments under such agreements or contract<sup>1</sup> without regard to section 3324 of title 31;

(3) any other provision of law to the contrary notwithstanding, to enter into joint development ventures with public or private commercial or noncommercial entities for development of facilities to meet the plan required under section 4426 of this title, if the ventures are related to and further the mission of the Institute;

(4) to sue and be sued in its corporate name and to complain and defend in any court of competent jurisdiction;

(5) to represent itself, or to contract for representation, in all judicial, legal, and other proceedings;

(6) with the approval of the agency concerned, to make use of services, facilities, and property of any board, commission, independent establishment, or executive agency or department of the executive branch in carrying out the provisions of this chapter and to pay for such use (such payments to be credited to the applicable appropriation that incurred the expense);

(7) to use the United States mails on the same terms and conditions as the executive departments of the United States Government;

(8) to obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5 and to accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5;

(9) to solicit, accept, and dispose of gifts, bequests, devises of money, securities, and other properties of whatever character, for the benefit of the Institute;

(10) to receive grants from, and enter into contracts and other arrangements with, Federal, State, or local governments, public and private agencies, organizations, institutions, and individuals;

(11) to acquire, hold, maintain, use, operate, and dispose of such real property, including improvements thereon, personal property, equipment, and other items, as may be necessary to enable the Board to carry out the purpose of this chapter;

(12) to the extent not already provided by law, to obtain insurance to cover all activities of the Institute, including coverage relating to property and liability, or make other provisions against losses;

(13) to use any funds or property received by the Institute to carry out the purpose of this chapter, including the authority to designate on an annual basis a portion, not to exceed 10 percent, of the funds appropriated pursuant to section 4451 of this title for investment, without regard to any other provi-

<sup>1</sup> So in original. Probably should be "contracts".

sion of law regarding investment or disposition of federally appropriated funds, on a short-term basis for the purpose of maximizing yield and liquidity of such funds; and

(14) to exercise all other lawful powers necessarily or reasonably related to the establishment of the Institute in order to carry out the provisions of this chapter and the exercise of the powers, purposes, functions, duties, and authorized activities of the Institute.

[See main edition for text of (b)]

(c) Interest and investments

Interest and earnings on amounts received by the Institute pursuant to section 4451 of this title invested under subsection (a)(12)<sup>\*</sup> of this section shall be the property of the Institute and shall be expended to carry out this chapter. The Board shall be held to a reasonable and prudent standard of care, given such information and circumstances as existed when the decision is made, in decisions involving investment of funds under subsection (a)(12)<sup>\*</sup> of this section.

(As amended Pub. L. 101-644, title V, § 501, Nov. 29, 1990, 104 Stat. 4668; Pub. L. 102-325, title XIII, § 1331(b), July 23, 1992, 106 Stat. 806; Pub. L. 103-208, § 2(l), Dec. 20, 1993, 107 Stat. 2486.)

REFERENCES IN TEXT

Subsection (a)(12) of this section, referred to in subsec. (c), was redesignated subsec. (a)(13) of this section, repealed, and a new subsec. (a)(13) added by Pub. L. 102-325, title XIII, § 1331(b)(1)(A), (C), July 23, 1992, 106 Stat. 806, and former subsec. (a)(11) of this section was redesignated subsec. (a)(12).

AMENDMENTS

1993—Subsec. (a)(12). Pub. L. 103-208 substituted semicolon for period at end.

1992—Subsec. (a)(2). Pub. L. 102-325, § 1331(b)(1)(B), added par. (2) and struck out former par. (2) which read as follows: "to make agreements and contracts with persons, Indian tribes, and private or governmental entities and to make payments or advance payments under such agreements or contracts without regard to section 3324 of title 31";.

Subsec. (a)(3) to (12). Pub. L. 102-325, § 1331(b)(1)(A), (B), added par. (3) and redesignated former pars. (3) to (11) as (4) to (12), respectively. Former par. (12) redesignated (13).

Subsec. (a)(13). Pub. L. 102-325, § 1331(b)(1)(C), added par. (13) and struck out former par. (13) which read as follows: "to use any funds or property received by the Institute to carry out the purpose of this chapter; and";.

Pub. L. 102-325, § 1331(b)(1)(A), redesignated par. (12) as (13). Former par. (13) redesignated (14).

Subsec. (14). Pub. L. 102-325, § 1331(b)(1)(A), redesignated par. (13) as (14).

Subsec. (c). Pub. L. 102-325, § 1331(b)(2), substituted "shall be expended" for "may be expended".

1990—Subsec. (a)(11). Pub. L. 101-644, § 501(b), amended par. (11) generally. Prior to amendment, par. (11) read as follows: "to obtain insurance or make other provisions against losses";.

Subsec. (c). Pub. L. 101-644, § 501(a), added subsec. (c).

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-208 effective as if included in the Higher Education Amendments of 1992, Pub.

L. 102-325, except as otherwise provided, see section 5(a) of Pub. L. 103-208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-325 effective Oct. 1, 1992, see section 2 of Pub. L. 102-325, set out as a note under section 1001 of this title.

§ 4415. President of Institute

REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

§ 4416. Staff of Institute

[See main edition for text of (a)]

(b) Appointment and compensation

[See main edition for text of (1)]

(2) The President of the Institute shall fix the basic compensation for officers and employees of the Institute at rates comparable to the rates in effect under the General Schedule for individuals with comparable qualifications and positions, to whom chapter 51 of title 5 applies. If the Board determines that such action is necessary for purposes of recruitment or retention of officers or employees necessary to the functions of the Institute, the Board is authorized, by formal action, to establish a rate of, or a range for, basic compensation that is comparable to the rate of compensation paid to officers or employees having similar duties and responsibilities in other institutions of higher education.

[See main edition for text of (3); (c) to (i)]

(As amended Pub. L. 102-325, title XIII, § 1331(c), July 23, 1992, 106 Stat. 806.)

AMENDMENTS

1992—Subsec. (b)(2). Pub. L. 102-325 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "The President of the Institute shall fix the basic compensation for officers and employees of the Institute at rates comparable to the rates in effect under the General Schedule for individuals with comparable qualifications, and holding comparable positions, to whom chapter 51 of title 5 applies."

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-325 effective Oct. 1, 1992, see section 2 of Pub. L. 102-325, set out as a note under section 1001 of this title.

§ 4417. Functions of Institute

[See main edition for text of (a)]

(b) Administrative entities

(1) The Board shall be responsible for establishing the policies and internal organization that relate to the control and monitoring of all subdivisions, administrative entities, and departments of the Institute.

<sup>\*</sup> See References in Text note below.

(2) The specific responsibilities of each subdivision, entity, and department of the Institute are solely within the discretion of the Board, or its designee.

(3) The Board shall establish, within the Institute, departments for the study of culture and arts and for research and exchange, and a museum. The Board shall establish the areas of competency for the departments created under this paragraph, which may include (but are not limited to) Departments of Arts and Sciences, Visual Arts, Performing Arts, Language, Literature and Museology and a learning resources center, programs of institutional support and development, research programs, fellowship programs, seminars, publications, scholar-in-residence programs and inter-institutional programs of cooperation at national and international levels.

*[See main edition for text of (c)]*

(As amended Pub. L. 101-644, title V, § 502, Nov. 29, 1990, 104 Stat. 4668; Pub. L. 102-325, title XIII, § 1331(d), July 23, 1992, 106 Stat. 807.)

#### AMENDMENTS

1992—Subsec. (b). Pub. L. 102-325 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "There shall be established within the Institute—

"(1) a Center for Culture and Art Studies to be administered by a director (appointed by the President of the Institute, with the approval of the Board), which shall include (but not be limited to) Departments of Arts and Sciences, Visual Arts, Performing Arts, Language, Literature, and Museology;

"(2) a Center for Research and Cultural Exchange, administered by a director (appointed by the President of the Institute, with the approval of the Board), which shall include—

"(A) a learning resources center;

"(B) programs of institutional support and development;

"(C) research programs;

"(D) fellowship programs;

"(E) seminars;

"(F) publications;

"(G) scholar-in-residence and artist-in-residence programs; and

"(H) inter-institutional programs of cooperation at national and international levels; and

"(3) a Museum of American Indian and Alaska Native Arts, which shall be under the direction of the President of the Institute."

1990—Subsec. (b)(2). Pub. L. 101-644, § 502(1), redesignated subpars. (B) to (I) as (A) to (H), respectively, and struck out former subpar. (A) which related to a museum of Indian arts.

Subsec. (b)(3). Pub. L. 101-644, § 502(2)-(4), added par. (3).

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-325 effective Oct. 1, 1992, see section 2 of Pub. L. 102-325, set out as a note under section 1001 of this title.

#### § 4418. Indian preference

##### (a) In general

Notwithstanding any other provision of Federal or State law, the Institute is authorized to develop a policy or policies for the Institute to extend preference to Indians in—

*[See main edition for text of (1) to (3); (b)]*

(As amended Pub. L. 102-325, title XIII, § 1331(e), July 23, 1992, 106 Stat. 807.)

#### AMENDMENTS

1992—Subsec. (a). Pub. L. 102-325 inserted "develop a policy or policies for the Institute to" after "is authorized to".

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-325 effective Oct. 1, 1992, see section 2 of Pub. L. 102-325, set out as a note under section 1001 of this title.

#### § 4421. Transfer of functions

*[See main edition for text of (a)]*

##### (b) Certain matters relating to transferred functions

(1) Subject to subsection (d) of this section, all personnel, liabilities, contracts, real property (including the collections of the museum located on the site known as the "Santa Fe Indian School" but not the museum building), personal property, assets, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function transferred under the provisions of this chapter (regardless of the administrative entity providing the services on the date before the transfer) shall be transferred to the Institute.

*[See main edition for text of (2); (c)]*

##### (d) Forgiveness of amounts owed; bold harmless

###### (1) Subject to paragraph (2)—

(A) the Institute shall be responsible for all obligations of the Institute incurred after June 2, 1988, and

(B) the Secretary shall be responsible for all obligations of the Institute incurred on or before June 2, 1988, including those which accrued by reason of any statutory, contractual, or other reason prior to June 2, 1988, which became payable within two years of June 2, 1988.

(2) With respect to all programs of the Federal Government, in whatever form or from whatever source derived, the Institute shall only be held responsible for actions and requirements, either administrative, regulatory, or statutory in nature, for events which occurred after July 1, 1988, including the submission of reports, audits, and other required information. The United States may not seek any monetary damages or repayment for the commission of events, or omission to comply with either administrative or regulatory requirements, for any action which occurred prior to June 2, 1988.

(e), (f) Repealed. Pub. L. 101-644, title V, § 503(1), Nov. 29, 1990, 104 Stat. 4669

(As amended Pub. L. 101-644, title V, § 503, Nov. 29, 1990, 104 Stat. 4669; Pub. L. 102-325, title XIII, § 1331(f), July 23, 1992, 106 Stat. 807.)

#### AMENDMENTS

1992—Subsec. (b)(1). Pub. L. 102-325, § 1331(f)(1), substituted "Subject to subsection (d) of this section, all personnel" for "All personnel".

Subsec. (d)(2). Pub. L. 102-325, § 1331(f)(2), substituted "monetary damages" for "monetary damage".

1990—Subsec. (d). Pub. L. 101-644, § 503, added subsec. (d) and struck out former subsec. (d) which read as follows: "Unless the Board provides otherwise, the Secretary of the Interior shall, until October 1, 1989, provide such technical and support assistance to the Institute as the Secretary determines reasonable or necessary to assist the Institute. Such assistance shall include audit, accounting, computer services, and building and maintenance services."

Subsecs. (e), (f). Pub. L. 101-644, § 503(1), struck out subsec. (e) which related to completion of transfers, final date of control of Institute by Secretary, payment of unexpended or unobligated funds, and responsibility for subsequently incurred obligations, and subsec. (f) which related to contract with University of New Mexico, terms of contract, and composition of advisory council.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-325 effective Oct. 1, 1992, see section 2 of Pub. L. 102-325, set out as a note under section 1001 of this title.

### § 4422. Reports

[See main edition for text of (a)]

#### (b) Budget proposal

(1) After September 30, 1988 and for each fiscal year thereafter, the Board shall submit a budget proposal to the Congress.

(2) A budget proposal under this subsection shall be submitted not later than April 1 of each calendar year and shall propose a budget for the Institute for the 2 fiscal years succeeding the fiscal year during which such proposal is submitted.

(3) In determining the amount of funds to be appropriated to the Institute on the basis of such proposals, the Congress shall not consider the amount of private fundraising or bequests made on behalf of the Institute during any preceding fiscal year.

(As amended Pub. L. 102-325, title XIII, § 1331(g), July 23, 1992, 106 Stat. 807.)

#### AMENDMENTS

1992—Subsec. (b). Pub. L. 102-325 redesignated pars. (2) to (4) as (1) to (3), respectively, and struck out former par. (1) which read as follows: "Prior to October 1, 1988, the Board shall submit a budget proposal to the Secretary of the Interior. The Secretary shall submit that proposal to the Congress."

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-325 effective Oct. 1, 1992, see section 2 of Pub. L. 102-325, set out as a note under section 1001 of this title.

### § 4423. Headquarters

Santa Fe, New Mexico, shall be maintained as the location for the Institute of Indian and Alaska Native Culture and Arts Development. To facilitate this action and the continuity of programs being provided at the Institute of American Indian Arts, the Board may enter into negotiations with State and local governments for such exchanges or transfers of lands and such other assistance as may be required.

(As amended Pub. L. 102-325, title XIII, § 1331(h), July 23, 1992, 106 Stat. 807.)

#### AMENDMENTS

1992—Pub. L. 102-325 struck out "The site of the Institute of American Indian Arts, at" before "Santa Fe, New Mexico" and substituted "the Board may enter" for "the Secretary may enter".

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-325 effective Oct. 1, 1992, see section 2 of Pub. L. 102-325, set out as a note under section 1001 of this title.

### § 4424. Compliance with other Acts

[See main edition for text of (a) and (b)]

#### (c) Other Federal assistance

(1) Funds received by the institute<sup>1</sup> pursuant to this chapter<sup>2</sup> shall not be regarded as Federal money for purposes of meeting any matching requirements for any Federal grant, contract or cooperative agreement.

(2) The Institute shall not be subject to any provision of law requiring that non-Federal funds or other moneys be used in part to fund any grant, contract, cooperative agreement, or project as a condition to the application for, or receipt of, Federal assistance. This subsection shall not be construed to effect<sup>3</sup> in a negative fashion the review, prioritization, or acceptance of any application or proposal for such a program, solicited or unsolicited.

(As amended Pub. L. 101-644, title V, § 504, Nov. 29, 1990, 104 Stat. 4669; Pub. L. 102-325, title XIII, § 1331(i), July 23, 1992, 106 Stat. 808.)

#### REFERENCES IN TEXT

This chapter, referred to in subsec. (c)(1), was in the original "this Act" and was translated as reading "this title", meaning title XV of Pub. L. 99-498 to reflect the probable intent of Congress.

#### AMENDMENTS

1992—Subsec. (c). Pub. L. 102-325 designated existing provisions as par. (1) and added par. (2).

1990—Subsec. (c). Pub. L. 101-644 added subsec. (c).

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-325 effective Oct. 1, 1992, see section 2 of Pub. L. 102-325, set out as a note under section 1001 of this title.

### § 4425. Endowment programs

#### (a) Program enhancement endowment

(1)(A) From the total amount appropriated for this subsection pursuant to section 4451(a) of this title, funds may be deposited into a trust fund maintained by the Institute at a federally insured banking or savings institution.

(B) The President of the Institute shall provide—

(i) for the deposit into the trust fund referred to in subparagraph (A)—

(I) of a capital contribution by the Institute in an amount equal to the amount of each Federal contribution; and

<sup>1</sup> So in original. Probably should be capitalized.

<sup>2</sup> See References in Text note below.

<sup>3</sup> So in original. Probably should be "affect".

(II) any earnings on the funds deposited under this paragraph; or

(li) for the reservation for the sole use of the Institute of any noncash, in-kind contributions of real or personal property, which property may at any time be converted to cash, which shall be deposited as a capital contribution into the trust fund referred to in subparagraph (A).

(C) If at any time the Institute withdraws any capital contribution (as described in subparagraph (B)(i)) made by the Institute to the trust fund referred to in subparagraph (A) or puts any property (as described in subparagraph (B)(ii)) to a use which is not for the sole benefit of the Institute, an amount equal to the value of the Federal contribution shall be withdrawn from such trust fund and returned to the Treasury as miscellaneous receipts.

(2) Interest deposited into the trust fund pursuant to paragraph (1)(B)(ii) may be periodically withdrawn and used, at the direction of the Board or its designee, to defray any expense associated with the operation of the Institute, including the expense of operations and maintenance, administration, academic and support personnel, community and student services programs, and technical assistance.

(3) For the purpose of complying with the contribution requirement of paragraph (1)(B), the Institute may use funds or in-kind contributions of real or personal property fairly valued which are made available from any private or tribal source, including interest earned by the funds invested under this subsection. In-kind contributions shall be other than fully depreciable property or property which is designated for addition to the permanent collection of the Museum and shall be valued according to the procedures established for such purpose by the Secretary of the Treasury. For purposes of this paragraph, all contributions, including in-kind and real estate, which are on-hand as of November 29, 1990 and which have been received after June 2, 1988, but which have not been included in computations under this provision shall be eligible for matching with Federal funds appropriated in any fiscal year. All funds transferred to the Institute by the Secretary of the Treasury after June 2, 1988, shall be deemed to have been properly transferred as of July 23, 1992.

(4) Amounts appropriated under section 4451(a) of this title for use under this subsection shall be paid by the Secretary of the Treasury to the Institute as a Federal capital contribution equal to the amount of funds or the value of the in-kind contributions which the Institute demonstrates have been placed within the control of, or irrevocably committed to the use of, the Institute as a capital contribution of the Institute in accordance with this subsection.

#### (b) Capital improvement endowment

(1) In addition to the trust fund established under subsection (a) of this section, funds may be deposited into a trust fund maintained by the Institute at a federally insured banking or savings institution from the amount reserved

for this subsection pursuant to section 4451(a) of this title for the purpose of establishing a separate special endowment for capital improvement (hereafter in this subsection referred to as the "capital endowment fund") to pay expenses associated with site selection and preparation, site planning and architectural design and planning, new construction, materials and equipment procurement, renovation, alteration, repair, and other building and expansion costs of the Institute.

(2) The President of the Institute shall provide for the deposit into the capital endowment fund of a capital contribution by the Institute in an amount equal to the amount of each Federal contribution and any earnings on amounts in the capital endowment fund.

(3) Funds deposited by the Institute as a match for Federal contributions under paragraph (5) shall remain in the capital endowment fund for a period of not less than two years. If at any time the Institute withdraws any capital contribution to the capital endowment fund before the funds have been deposited for this two-year period, an equal amount of the Federal contribution shall be withdrawn from the capital endowment fund and returned to the Treasury as miscellaneous receipts. At the end of the two-year period, the entire principal and interest of the funds deposited for this period, including the Federal matching portion, shall accrue, without reservation, to the Institute and may be withdrawn, in whole or in part, to defray expenses associated with capital acquisition and improvement of the Institute referred to in paragraph (1).

(4) For the purpose of complying with the contribution requirement of paragraph (2), the Institute may use funds which are available from any private, non-Federal governmental, or tribal source.

(5) Subject to paragraph (3), amounts appropriated under section 4451(a) of this title for use under this subsection shall be paid by the Secretary of the Treasury to the Institute as a Federal capital contribution equal to the amount which the Institute demonstrates has been placed within the control of, or irrevocably committed to the use of, the Institute and is available for deposit as a capital contribution of the Institute in accordance with this subsection.

#### (c) General administrative provisions

(1) Funds in the trust funds described in subsections (a) and (b) of this section shall be invested at a rate not less than that generally available for similar funds deposited at the same banking institution for the same period or periods of time.

(2) No part of the net earnings of the trust funds established under this section shall inure to the benefit of any private person.

(3) Any amounts deposited in a trust fund authorized under subsection (a) of this section may be used to secure loans procured for the purposes of constructing or improving Institute facilities.

(4) The President of the Institute shall provide for such other provisions governing the

trust funds established under this section as may be necessary to protect the financial interest of the United States and to promote the purpose of this chapter as agreed to by the Secretary of the Treasury and the Board or its designee, including recordkeeping procedures for the investment of funds received under the trust fund established under subsection (b) of this section and such other recordkeeping procedures for the expenditure of accumulated interest for the trust fund under subsection (a) of this section as will allow the Secretary of the Treasury to audit and monitor activities under this section.

(As amended Pub. L. 101-644, title V, § 505, Nov. 29, 1990, 104 Stat. 4669; Pub. L. 102-325, title XIII, § 1331(j), July 23, 1992, 106 Stat. 808.)

#### AMENDMENTS

1992—Subsec. (a)(3). Pub. L. 102-325, § 1331(j)(1)(A), substituted “November 29, 1990” for “the date of enactment of this Act”.

Pub. L. 102-325, § 1331(j)(1)(B), inserted at end “All funds transferred to the Institute by the Secretary of the Treasury after June 2, 1988, shall be deemed to have been properly transferred as of July 23, 1992.”

Subsec. (b)(4). Pub. L. 102-325, § 1331(j)(2), inserted “, non-Federal governmental,” after “any private”.

Subsec. (c)(3), (4). Pub. L. 102-325, § 1331(j)(3), added par. (3) and redesignated former par. (3) as (4).

1990—Pub. L. 101-644 amended section generally, substituting present provisions consisting of subsecs. (a) to (c) for former text which provided: in subsec. (a), establishment of program; in subsec. (b), use of funds; in subsec. (c), compliance with matching requirement; and in subsec. (d), payment of Federal contribution.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-325 effective Oct. 1, 1992, see section 2 of Pub. L. 102-325, set out as a note under section 1001 of this title.

#### § 4426. Provision of facilities

##### (a) Plan

The Board shall prepare a master plan on the short- and long-term facilities needs of the Institute. The master plan shall include evaluation of all facets of existing Institute programs, including support activities and programs and facilities. The master plan shall include impact projections for the Institute's move to a new campus site. This master plan shall evaluate development and construction requirements (based on a growth plan approved by the Board), including (but not limited to) items such as infrastructure and site analysis, development of a phased plan with architectural and engineering studies, cost projections, landscaping, and related studies which cover all facets of the Institute's programs and planned functions.

##### (b) Deadline for transmittal

The plan required by this subsection shall be transmitted to Congress no later than 18 months after July 23, 1992. Such plan shall include a prioritization of needs, as determined by the Board.

(Pub. L. 99-498, title XV, § 1519, as added Pub. L. 102-325, title XIII, § 1331(k), July 23, 1992, 106 Stat. 808.)

#### EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 2 of Pub. L. 102-325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4414 of this title.

### SUBCHAPTER III—AUTHORIZATION OF APPROPRIATIONS

#### § 4451. Authorization of appropriations

##### (a) Subchapter I

[See main edition for text of (1) to (3)]

(4) Funds appropriated under this subsection for the fiscal year 1992 and for each succeeding fiscal year shall be transferred by the Secretary of the Treasury through the most expeditious method available with the Institute being designated as its own certifying agency.

(5) Funds are authorized to be appropriated for programs for more than one fiscal year. For the purpose of affording adequate notice of funding available under this chapter<sup>1</sup>, amounts appropriated in an appropriations Act for any fiscal year to carry out this chapter<sup>1</sup> may, subject to the appropriation, become available for obligations on July 1 of that fiscal year.

[See main edition for text of (b)]

(As amended Pub. L. 101-644, title V, § 506, Nov. 29, 1990, 104 Stat. 4672.)

#### REFERENCES IN TEXT

Section 4425 of this title, referred to in subsec. (a)(3), was amended generally by Pub. L. 101-644, title V, § 505, Nov. 29, 1990, 104 Stat. 4669, and, as so amended, provisions similar to subsec. (d) are contained in subsec. (a)(4).

This chapter, referred to in subsec. (a)(5), was in the original “this Act” and was translated as reading “this title”, meaning title XV of Pub. L. 99-498 to reflect the probable intent of Congress.

#### AMENDMENTS

1990—Subsec. (a)(4), (5). Pub. L. 101-644 added pars. (4) and (5).

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4414, 4425 of this title.

### CHAPTER 57—JAMES MADISON MEMORIAL FELLOWSHIP PROGRAM

#### § 4502. Foundation

[See main edition for text of (a)]

##### (b) Board of Trustees; membership; term of office

[See main edition for text of (1) and (2)]

(3) A member of the Board whose term has expired may continue to serve until the earlier of—

(A) the date on which a successor has taken office; or

<sup>1</sup> See References in Text note below.